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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/642,242

08/17/2000

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UD&LP049

7359

530 7590 11/23/2009
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EXAMINER

LUKTON, DAVID

ART UNIT

PAPER NUMBER

1654

MAIL DATE

DELIVERY MODE

11/23/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Pursuant to the directives of the response filed 8/3/09, claim 2 has been amended.

Claims 1-30, 32-55 are now pending.

Applicants' arguments filed 8/3/09 have been considered and found persuasive.

Claims 27, 30, 33-37, 53, 55 are now rejoined with the elected claims.

Claims 2, 25, 27, 29, 30, 33-37, 53-55 are examined in this Office action; claims 1, 3-24, 26, 28, 32, 38-52 remain withdrawn from consideration.

Claim 2 is now objected to; claims 30 and 37 are rejected, and the remaining claims (25, 27, 29, 33-36, 53-55) are objected to because of their dependence on claim 2.

▲

Claim 2 is objected to for each of two reasons.

First, formula 1 begins with the following:

“CH₂OR-CHOR-**CH₂0**-“

As should be evident, the number zero has been used, rather than an uppercase “O”.

Second, in claim 2, each of the letters “a”, “b”, “c”, and “d” is followed by a period. There should be just one period in each claim, and that period should be present at the end of the claim. One option here would be to use the right-hand parenthesis instead of a period (following each letter).

▲

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Claims 30 and 37 are rejected under 35 U.S.C. §112 second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claim 30 recites “a formulation as claimed in any claim 2”. This raises the question, how many claim 2’s are there?
- Claim 37 recites that R’ can be oleate or linoleate (etc.). What is probably intended is that substituent variable R (without the “prime”) can be oleate or linoleate (etc.), or else that R’, taken together with the carbonyl group to which it is bonded can be one of the recited fatty acids.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). The practice of automatically extending the shortened statutory period an additional month upon filing of a timely first response to a final rejection has been discontinued by the Office. See 1021 TMOG 35.

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED AND ANY EXTENSION FEE PURSUANT TO 37 CFR 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

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It is suggested that applicants review all of the non-elected claims, and to either cancel or amend each of them, as appropriate. Claim 3 will not be rejoined, and claim 1 will not be rejoined in its present form.



Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Lukton whose telephone number is 571-272-0952. The examiner can normally be reached Monday-Friday from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cecilia Tsang, can be reached at (571)272-0562. The fax number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-1600.

/David Lukton/
Primary Examiner, Art Unit 1654